

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री कुल भारत, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI KUL BHARAT, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 931/JP/13  
निर्धारण वर्ष / Assessment Year : 2009-10

The ITO, Ward-2(1), Kota.	बनाम Vs.	Shri Babu Lal Somani, Prop. M/s Somani & Company and Somani Carrier, Bundi Road, Kota.
स्थायी लेखा सं./जीआईआर सं./PAN No.: ATBPS9231K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Shri Ajay Chandra (CIT)  
निर्धारितीकी ओर से / Assessee by : None

सुनवाई की तारीख / Date of Hearing : 04/08/2017  
घोषणा की तारीख / Date of Pronouncement: 18/09/2017.

आदेश / ORDER

PER SHRI VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the Revenue against the order of Ld. CIT(A), Kota dated 30.09.2013 for A.Y. 2009-10. None appeared on behalf of the assessee. Given that the appeal was filed on 29.11.2013, thereafter it was first listed for hearing on 29.01.2014 and since then, the matter has come up for hearing on numerous occasions but no hearing has taken place, it was decided that no useful purpose would be served in adjourning the matter any further. Accordingly, based on material available on record and taken into consideration the contentions of the Id. DR, the appeal is being disposed off on merits.

2. Briefly the facts of the case are that survey under u/s 133A was carried out at the business premises of the assessee on 01.10.2008. Given the nature and complexity of accounts, loose papers and incriminating documents found during the course of survey, the matter was referred for special audit u/s 142(2A) of the I.T. Act. The assessment proceedings were thereafter completed by passing an order under section 143(3) of the Act wherein an addition of Rs. 2,42,47,241/- was made by the Assessing Officer under various heads as against the return income of Rs. 11,54,207/-

3. Being aggrieved, the assessee carried the matter in appeal before the Id. CIT(A) who has given certain relief to the assessee against which the Revenue is in appeal before us.

4. In its appeal, the Revenue has taken as many as 10 grounds of appeal. In most of the grounds, we find that the matter relating to rejection of books of accounts, determination of suppressed turnover, estimation of profits and where the profits are so estimated, can there be separate additions made under various specific heads have been taken by the Revenue. For the sake of discussions, we have taken all these grounds of appeal together. Thereafter, other remaining grounds have been adjudicated upon.

**Whether the books of accounts have been rejected**

5. The first and foremost question that arises for consideration in all these grounds of appeal is whether the books of accounts of the assessee have been rejected in the instant case or not. The Id. CIT(A) has given a finding that in substance the AO never relied on the books of accounts of the assessee, and time and again, this fact was mentioned by the AO in the assessment order. It was accordingly held by the Id. CIT(A) that AO has in substance rejected the books of accounts and after doing so, the AO should

have computed estimated income by estimating turnover of the assessee and should have applied net profit rate for computing the income of the assessee.

6. In this regard, we refer to the remand report of the AO, wherein he has submitted his comments on the rejection of books of accounts, during the course of appellate proceedings before the Ld. CIT(A) which are as under:-

*" In its counter comments, the A.O. has mentioned as under:-*

*" As it has already been stated in assessment order that the assessment was made on the basis of assessee's books of account and impounded documents. **The regular books of account has not been rejected by the A.O. and head wise addition has been made on the basis of impounded books and documents and other irregularities noticed during the course of assessment proceedings in the regular books of account of assessee.***

*The unrecorded expenses/purchase found in impounded documents has been considered by the special auditor in audit report with the remarks that they have entered these expenses/ purchases in books just to prepare correct cash inflow/ outflow statement and the taxability of those expenses/ purchase shall be seen in light of the provision of section 69C of the IT Act at the time of assessment. Further during the course of assessment proceedings the assessee has repeatedly said mostly in each reply of query that his books of account should be rejected as done in past assessment years, except in two points of addition he has not even disputed the quantum of addition which indicates that he was agreed with the quantum of additions but only he has repeatedly argued to reject the books of account as done in the assessment of the previous assessment year's and requested to apply the NP rate. All the replies filed by assessee during the course of assessment proceedings have been reproduced in every addition in which the assessee has repeated the same about applicability of NP rate and rejection of books.*

*The contention of assessee for rejection of books on the basis of the judgment of Hon'ble ITAT is also not seems correct because the judgment of the Hon'ble ITAT is not applicable on this assessment as AO has not rejected the books of the assessee and has made the*

*additions on the basis of impounded books and documents and regular books of account of assessee. Further, the Department has moved an appeal before the Hon'ble Rajasthan High Court against said order of the Hon'ble ITAT."*

7. In this regard, we also refer to the finding of the Id. CIT(A) wherein he has upheld the action of the AO in referring the matter for special audit u/s 142(2A) of the Act. The Id CIT(A) has upheld the action of the AO relying on the finding of the Coordinate Bench in assessee's own case in the previous assessment years. The relevant findings of the Coordinate Bench are contained at para 4.12 of the Id. CIT(A) order which are reproduced as under:-

*"4.12 This issue came up before Hon'ble Tribunal in the case of assessee itself in the appeals of previous assessment years. The Hon'ble Tribunal observed as under:-*

*"The facts in this case are similar to the facts in the case of Shri Ritesh Somani. While deciding the appeal in the case of Shri Ritesh Somani in ITA No. 592 to 597/JP/2011 and 618 to 623/JP/2011, vide order dated 30.11.2012, we have held that reference for special audit is in accordance with the provisions of law. Following that order we dismiss the above ground of appeal.*

*In the case of Shri Ritesh Somani, while holding that the A.O. was justified in referring the matter for special audit u/s 142(2A) of the Act, the Hon'ble ITAT made the following elaborate observations:-*

*"Before us, the Id. AR has relied upon the decision of Hon'ble jurisdictional High Court in the case of CIT Vs. Bajrang Textiles (Supra). In this case, the A.O. issued the directions to get the assessee's accounts audited on 29<sup>th</sup> December, 1999 when only one day was left for completion of the block assessment. The A.O. also directed the special auditor to prepare the books of accounts in the form of cash book, ledger on the basis of the documents/ papers seized during the course of search as per his directions. The auditor was also required to prepare the trading and profit account and further to determine the undisclosed income of the block period. The Hon'ble High*

*Court observed that apparently the order was for preparing fresh books rather than to conduct the special audit. Hon'ble High Court observed that no authority has been given to the assessee direct the preparation of fresh books by referring the matter to the auditor under special audit. The audit is for the purpose of satisfying one about the authenticity and credibility of the accounts prepared by the assessee but not for preparing the new account books as per direction of the A.O. In the instance case the A.O. asked the special auditor to do the special audit in view of the provisions of Rule 14A. Rule 14A says that report of the audit is to be given in the form No. 6B. Form No. 6B mentions about various items on which the special auditor has to give his report. Such items contained in the form No. 6B was also intimated to the special auditor. It is true that the A.O. required the auditor to examine all the account books, bills, vouchers, loose papers, documents, bank statement etc. and to prepare the cash inflow/outflow statements, cash books, ledger, trail balance, final accounts, trading and profit and loss account, balance sheet etc. for different assessment years as mentioned above with the aim to enable the Department to arrive at the true state of affairs of various concerns in which the assessee is associated either as a proprietor or partner.*

***The basic purpose was for examined of the books of accounts and to give the comments on different issues including the violation of provisions of section 269SS, 269T and section 40A(3) of the IT Act. The A.O. has mentioned in the letter that audit is to be carried out in view of the provisions of Rule 14A. One has to read entire letter together and from this letter one cannot infer that the A.O. referred the matter for special audit for getting the books of accounts prepared. The facts in the instant case are distinguishable from the facts of CIT vs. Bajrang Textiles (supra) in which the audit was referred just one day prior to the limitation period."***

*The facts and circumstances of the case of assessee for assessment year 2009-10 are similar with the facts and circumstances of the case of assessee for A.Y. 2004-05 to 2008-09 for which the Hon'ble ITAT has decided as above so far as this ground is concerned.*

*Following the decision of Hon'ble Tribunal (the facts being identical the issue is decided in favour of revenue and against the assessee). This ground of appeal is dismissed."*

8. In light of above, in the instant case, it is clear that the basic purpose for referring the matter to the special auditor was to examine the books of accounts and to give his comments on various issues and not to get the books of accounts prepared. It is therefore in consonance with the comments of the AO in the remand proceedings as noted above that the unrecorded expenses/purchase found in impounded documents has been considered by the special auditor in audit report with the remarks that they have entered these expenses/ purchases in books just to prepare correct cash inflow/ outflow statement.

9. The provisions of Section 145(3) of the Act provides that where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) has not been regularly followed by the assessee, or income has not been computed in accordance with the standards notified under sub-section (2), the Assessing Officer may make an assessment in the manner provided in section 144. There has to be a specific finding given by the AO in terms of satisfaction of any or all of the above conditions before he rejects the books of accounts of the assessee. Further, the AO has to specify the reasons as to why he feels that the results declared by the books of accounts are not acceptable. However, in the remand proceedings, as we have noted above, the AO has drawn reference to his findings during the course of assessment proceedings that the regular books of account has not been rejected and head wise addition has been made on the basis of impounded books and documents and other irregularities noticed during the course of assessment proceedings in the regular books of account of assessee.

10. Further, Section 142(2A) of the Act provides that if any stage of the proceedings before him, the Assessing Officer, having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the account, multiplicity of the transactions in the accounts or specialized nature of business activities of the assessee and the interest of the Revenue, is of the opinion that it is necessary to do so, he may with the previous approval of the Principal CIT direct the assessee to get the accounts audited by an accountant and to furnish a report of such audited accounts in the prescribed form duly signed and verified by such accountant setting forth such particulars as may be prescribed and such other particulars of the Assessing Officer may require.

11. In the instant case, a survey u/s 133A was carried out on 01.10.2008 at the business premises of the assessee. On the basis of nature and complexity of the accounts, loose papers and incriminating documents found during the course of survey, the case was referred for special audit u/s 142(2A) by CIT, Kota. The Assessing Officer has stated at para-3 of his assessment order as to the precise reasons as to why the case was referred for special audit and the same is reproduced as under:-

*"3. In this context, it was noticed that during the course of hearing dated 21.11.2011, The A/R of the assessee, Shri Harish Dhyani, CA along with Shri Vinod Duggar, Accountant appeared. They inspected the impounded records. In their presence, this office tried to work out unrecorded sales, unrecorded investments and other undisclosed income etc. The A/R and Accountant of the assessee were asked to get the entries verified as appearing in impounded material vis-a-vis regular books of account of the assessee, but they have failed and could not get the same verified. After going through material/entries available in the impounded records with this office as well as looking to the volume of impounded record complexity therein, **it has been decided that it is necessary to get special audit conducted in this case by an another Chartered Accountant u/s 142(2A) of the IT Act, 1961 in order to segregate the transactions from the incriminating***

***documents impounded during the survey proceedings, which were not ascertained from the regular books of account."***

12. The A.O. in the assessment order has stated that the special auditor in his report submitted on 18.06.2012 had pointed out a number of defects in the books of accounts of the assessee. Further, the Assessing Officer at para 6 of his assessment order stated as under:

*"the assessment proceedings are being concluded as per details produced, on the basis of documents impounded during the course of survey, on the basis of books of accounts, trading, profit and loss account, balance sheet produced by the assessee and with the help of re-casted books of accounts and special audit report to ascertain correct sales, purchases, unrecorded and excessive expenditure recorded in the books of account of the assessee."*

13. In light of above, it is clear that based on nature and complexity of accounts, volume of loose papers, incriminating documents found during the course of survey and to identify and segregate the transactions from the incriminating documents impounded during the survey proceedings which were not ascertained from the regular books of account, special audit was referred to by the CIT, Kota. The Special auditor has pointed out a number of defects in the books of accounts of the assessee and the unrecorded expenses purchases, sales and other income as found out based on examination of the documents so impounded have been incorporated in the re-casted balance sheet and profit and loss account for the limited purposes of depicting a clear picture of fund flow of the assessee. The Assessing Officer has considered the defects so observed by the special auditor in his report and after giving an opportunity to the assessee made specific additions/disallowance as we have noted above.

14. However, we find that there is no specific finding which has been recorded by the Assessing Officer in the assessment order recording his



satisfaction as to rejection of the books of accounts and the result so declared by the assessee. It is true that the matter was referred for special audit u/s 142(2A) but that by itself will not result in an implied finding of the AO about his non-satisfaction about the books of accounts and rejection thereof. As noted by the Coordinate Bench as well, the basic purpose for special audit was for examination of the books of accounts and to give specific comments on specific issues and it cannot be inferred that the matter for special audit was referred for getting the whole of the books of account recasted and preparation thereof afresh. The defects so pointed out by the special auditor have been incorporated in the recasted books of accounts effectively means taking into consideration the results already declared by the assessee in respect of its declared transactions and the results as per unrecorded transactions relating to purchase and sales and other income, presenting an overall position regarding the business results in relation to activities carried out by the assessee. Therefore, we are of the considered view that merely because the matter was referred for special audit and the AO has made certain additions based on the observations of the special auditor, it cannot be held that the AO has rejected the books of account of the assessee. There has to be a specific finding given by the AO in terms of satisfaction of any or all of the conditions as specified under section 145(3) before he rejects the books of accounts of the assessee. Further, the AO has to specify the reasons as to why he feels that the results declared by the assessee as per the books of accounts are not acceptable.

15. Now, let's look at the matter from another perspective. In absence of the specific finding of rejection of books of accounts by the AO, can it be inferred that the AO has rejected the books of accounts of the assessee. In this regard, we refer the recasted profit/loss account for the year ended March 31, 2009 which is available on record. The analysis thereof in terms of

recorded transactions and unrecorded transactions depicts the following position:

Particulars	Total as per recasted profit/loss account (Rs)	Unrecorded transactions (Rs)	Recorded transactions (Rs)	% of recorded transactions
	A	B	C = A-B	D= C/A*100
Sales	1,52,64,043	28,73,377 (98,948+14,02,856+12,27,248+144,325)	12,390,666	81.18%
Transportation receipts	35,79,117	195,889	33,83,228	94.52%
Loading receipts	759,302	10,000	749,302	98.68%
Total turnover	1,96,02,462	30,79,266	1,65,23,196	84.29%

16. As it is apparent from above table, turnover to the extent of 84.29% is as per the recorded transactions in the books of accounts of the assessee which has been considered by the AO and only the balance turnover to the extent of 15.71% is as per unrecorded transactions which has been found out based on the impounded documents. And there are corresponding expenses as recorded in the books of accounts which have been considered by the AO other than those which have been discovered and reported as per special audit. In light of the same, can it be inferred that the AO has rejected the whole of the books of accounts of the assessee. In our view, such a conclusion would be wholly untenable and incorrect in the present facts of the

case. The reasons for the same is that firstly, the AO has not made any adjustment in relation to the books results so declared by the assessee in respect of reported transactions and infact, has accepted the same. When the book results relating to more than 84% of turnover have been accepted, can it be inferred that the books of accounts, basis which the book results have been so declared, have been rejected and the answer to the same cannot be in affirmative. In our view, all the AO has done is that he has accepted the book results in respect of recorded transactions and in addition, the unrecorded transactions relating to sales/income, unrecorded purchase and other expenditure have also been brought to tax. In any case, there cannot be a presumption regarding rejection of books of accounts in absence of specific exercise of powers under section 145(3) of the Act.

17. Further we find that there is no specific finding which has been given by the Id. CIT(A) wherein in exercise of his co-terminus powers, he is of the opinion that the books of accounts cannot be relied upon and deserve to be rejected in the instant case. All the Id CIT(A) has stated is that the AO has in substance rejected the books of accounts and after doing so, the AO should have computed estimated income by estimating turnover of the assessee and should have applied net profit rate for computing the income of the assessee.

**Can rejection of books of accounts be at the instance of the assessee**

18. Before departing, we would also like to touch upon another perspective which we have noticed in the instant case. During the course of assessment proceedings, in response to each of the queries raised by the AO in relation to observations of the special auditor, the assessee has repeatedly stated that his books of account should be rejected as done in past assessment years. The question that arises for consideration whether the powers to be exercised under section 145(3) can be exercised at the request of the assessee. To recapitulate, section 145(3) provides that where the Assessing Officer is not

satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) has not been regularly followed by the assessee, or income has not been computed in accordance with the standards notified under sub-section (2), the Assessing Officer may make an assessment in the manner provided in section 144 of the Act. It is for the assessee to declare its results and offer its books of accounts for verification and then, it is for AO to determine whether the book results so declared are correct or not or the books of accounts have to be rejected as not depicting correct state of affairs of the assessee. In our considered view, there is nothing in the said provisions when empower the assessee to request the AO to reject his books of accounts.

19. Further, each year is separate year and the principle of *res-judicata* doesn't apply in the income tax proceedings. And we agree with the view of the AO that the contention of assessee for rejection of books on the basis of the past decisions of the Coordinate Bench also not seems correct because the judgment of the Coordinate Bench is not applicable on this assessment as AO has not rejected the books of the assessee and has made the additions on the basis of regular books of account of assessee as well as taking into consideration documents impounded during the course of survey and the report of the special auditor thereon.

20. In light of above discussions and in the entirety of facts and circumstances of the case, we are of the view that the books of accounts have not been rejected in the instant case. The findings of the Id CIT(A) to this extent is set-aside and the findings of the AO are confirmed.

**Estimation of net profit vis-a-vis specific disallowances/additions done by the AO**

21. In ground no. 3, the Revenue has challenged the action of the Id CIT(A) in holding that AO had rejected books of account of the assessee and,

therefore, addition of only Rs. 5,03,251/- is required to be made by applying net profit rate of 10% on undisclosed sales and 9% on disclosed sales of assessee as against the following additions made by A.O. in view of various discrepancies in impounded books of account vis-a-vis regular books of account of the assessee:-

S.N.	Brief particulars of addition	Accounts (Rs.)
i)	Unexplained expenditure u/s 69C	20,88,402/-
ii)	Expenses claimed excessive/bogus	2,63,189/-
iii)	Different in ledgers u/s 69B	28,30,670/-
iv)	Unrecorded Marble & Granite purchase & sales	14,02,856/-
vi)	Unrecorded loading receipts from Railways	1,95,889/-
vii)	Unrecorded sales of March 2009 of Dabora/ballast to Railway	12,27,248/-
viii)	Unrecorded purchases/labour and transportation charges of lime	8,49,286
ix)	Unrecorded income from Crusher Hire Charges	10,000/-
x)	Unexplained expenses	1,14,800/-
xi)	Transportation charges paid to various truck owner for supply of ballast/grit to railway u/s 69C	3,00,000/-
xii)	Unrecorded sales as per Annexure-17	1,44,325
xiii)	Unexplained expenses being Repair & Maintenance of Plant & machinery	2,64,877/-
xiv)	Unexplained Transportation Expenses	6,49,962/-
	Total	1,04,40,452/-

22. The relevant findings of the Id. CIT(A) which are under challenge before us are as under:-

*"The A.O. had made specific additions on the above grounds and took a stand before me that books of accounts of assessee were not rejected and therefore each addition should be considered separately.*

*I have gone through the observation of A.O. and it was seen that in substance the A.O. never relied on the books of accounts of assessee and time and again this fact was mentioned by A.O. in the assessment order.*

*Therefore, it is held that A.O. has in substance rejected the books of accounts after doing so, the A.O. should have computed estimated income by estimating turnover of assessee and should have applied net profit rate for computing the income of assessee.*

*The net profit shown by assessee was Rs. 10,95,464/- on a turnover of Rs. 1,37,62,240/- which gave net profit rate of 7.96%. The net profit as per auditor was Rs. 8,81,116/- on a turnover of Rs. 1,57,64,044/- which gave a net profit rate of 5.59%. On the basis of facts before me, discrepancies pointed point by A.O., Hon'ble ITAT's order, net profit rate on declared turnover is estimated @ 9% which gives net profit of Rs. 12,38,602/- resulting into addition of Rs. 1,43,138/-. The assessee, itself, has disclosed net profit rate of 8% on disclosed sales. As held by Hon'ble ITAT ( in earlier years) some of the expenses of undisclosed turnover stands included in disclosed sales therefore the same has to be excluded from disclosed turnover (on estimated basis) resulting in higher profit.*

*The undisclosed turnover of assessee is computed as under:-*

i)	As per Ground No. 2(v)	Rs. 98,948/-
ii)	As per Ground No. 2(vi)	Rs. 14,02,856/-
iii)	As per Ground No. 2(viii)	Rs. 1,95,889/-
iv)	As per Ground No. 2(ix)	Rs. 12,27,248/-
v)	As per Ground No. 2(xxii)	<u>Rs. 1,44,325/-</u>
	<b>Total</b>	<b>Rs. 30,69,266/-</b>

*As discussed in Ground No. 2(x), the suppressed sales on account of undisclosed production comes to Rs. 36,01,132/- whereas the same comes to Rs. 30,69,266/- by taking figures of undisclosed sale. Giving the benefit of*

*telescoping the undisclosed sale figure is taken at Rs. 36,01,132/- being higher of the two.*

*In the case of assessee for A.Y. 2004-05, 2005-06, 2006-07, 2007-08 & 2008-09 ITA No. 602 to 606 & 609 to 613/JP/2011 the Hon'ble Tribunal has applied net profit rate of 6% on discloses sales and net profit rate of 8% on undisclosed sales. The logic for applying higher rate of net profit (8% as compared to 6%) was because some of the expenses in respect of such sales stands included in disclosed sales applying the same ratio a net profit rate of 10% is applied on undisclosed sales (the assessee, itself, has disclosed net profit rate of 8% on disclosed sales).*

*This gives net profit of Rs. 3,60,113/- on undisclosed sales, resulting into addition of Rs. 5,03,251/- (3,60,113/- on undisclosed sale + 1,43,138/- on disclosed sales).*

*The above grounds of appeal dealt with either disallowance of expenses or unexplained sales etc and are treated as covered by estimation of income [as discussed above] and are treated as partly allowed."*

23. In ground no. 4, the Revenue has challenged the action of the Id CIT(A) in deleting the addition of Rs. 27,15,203/- made by A.O. u/s 40(a)(ia) on account of non-deduction of TDS on labour & transportation expenses since the A.O. neither rejected Books of Account of assessee nor estimate income by applying fixed net profit rate on assessee's sales.

24. The relevant findings of the Id. CIT(A) are as under:-

*"I have gone through the AO's finding and assessee's submission and counter comments of A.O. The nature of transaction (labour & transportation) itself shows that no work can be done without understanding between the parties.*

*No person will carry out work without understanding about the scope of work and resultant consideration. The fact that work was done and payments were made itself shows that there was oral understanding between the parties about the scope of work and consideration. It is therefore held that there was contract between the parties.*

*The assessee further submitted that once books of accounts are rejected no separate disallowance can be made. He placed his reliance on the following judgments:-*

*i). CIT Vs. GK contractors (2009)19 DTR 305(Raj.).*

*ii). Choudhary Bros. Vs. ITO 135 TTJ 55 (JP.)*

*iii). ITO Vs. Sadhwani Bros. 58 DTR 368 (JP.)*

*iv). Rajendra Kumar Kedia 22 TW 506 & Kiran Udhyog 34 TW 80*

*While deciding the aforesaid issue my predecessor CIT(A) has held as under:-*

*"It has been held by various judicial authorities that once the books of accounts are rejected and income is estimated by applying fixed profit rate, no further disallowance is justified u/s 40(a)(ia). As mentioned earlier in this case books of accounts of appellant are not correct and complete and therefore income has been estimated by applying fixed profit rate. Therefore, no disallowance u/s 40(a)(ia) is justified. Addition of Rs. 3812700/- is directed to be deleted. Ground No. 4(x) is thus allowed."*

*I have already held that books of accounts of assessee were as rejected and income of assessee was to be estimated.*

*Therefore, no disallowance u/s 40(a)(ia) is justified. The A.O. is directed to delete the addition of Rs. 27,15,203/-"*



25. In ground no. 6, the Revenue has challenged the action of the Id CIT(A) in deleting the addition of Rs. 36,45,562/- made by A.O. on account of violation of provisions of section 40A(3) since the AO neither rejected Books of Account of the assessee nor estimated income by applying net profit rate on sales.

26. The relevant finding of the Id. CIT(A) are as under:-

*"The A.O. made addition of Rs. 36,45,562/- for violation of provision of section 40A(3). As held by me the books of account of assessee were rejected and profit has to be estimated. Therefore, in view of various judgment [e.g. CIT Vs. G.K. Contractors (2009) 19DTR 305 (Raj.)] no addition is called for when net profit rate is applied. The A.O. is therefore directed to delete addition of Rs. 36,45,562/-"*

### **Our findings**

27. The Assessing Officer has made specific disallowances/additions under various specific heads such as unexplained expenditure u/s 69C, expenses claimed excessive/ bogus, differences in ledgers u/s 69B, unrecorded Marble & Granite purchases, unrecorded purchases/labour and transportation charges of lime, unexplained expenses, transportation charges paid to various truck owner for supply of ballast/grit to railway u/s 69C, unexplained expenses being repair & maintenance of plant and machinery, unexplained transportation expenses, addition on account of non- deduction of TDS on labour & transactions u/s 40(a)(ia), addition on account of violation of provisions of section 40A(3), etc. The Id CIT(A) has held that since the books of accounts have been rejected, estimation of net profit should be made in the instant case. Further, Id CIT(A) has held that where books of accounts have been rejected and net profit has been estimated, no separate additions can be made relying on the same books of accounts. The Id. CIT(A) has accordingly estimated net profit at 10% of the undeclared turnover and 9%

of the declared turnover of the assessee and has deleted specific additions/disallowances of various expenses.

28. As we have held above, there is no basis to hold that the books of accounts have been rejected in the instant case. Where the books of accounts have not been rejected, there is no basis to estimate the net profit as done by the Id CIT(A). Consequently, there is no estoppel to make specific additions/disallowances in terms of section 40(a)(i), 40A(3) and other specific disallowances towards unexplained expenditure. In our view the Assessing officer has made the specific additions/disallowances based on specific material which is available on record and which has not been controverted by the assessee either during the assessment or appellate proceedings. During these proceedings, the contention of the assessee all along has been to reject its books of accounts and estimate the net profit. As we have held above, the provisions of section 145(3) are to be exercised by the AO where the AO is of the opinion that the books of accounts are not reliable and are to be rejected. Such exercise of rejection of books of accounts cannot and should not be at the request of the assessee and more so, for the benefit of the assessee especially where there is specific material and findings on record to make specific disallowances/additions in view of non-fulfilment of conditions specified therein.

29. Now coming to specific disallowances/additions made by the AO. The AO has made the addition towards the unexplained expenditure u/s 69C amounting to Rs 20,88,402, differences in ledgers u/s 69B amounting to Rs 28,30,670, transportation charges paid to various truck owners for supply of ballast/grit to railway u/s 69C amounting to Rs 3,00,000, addition on account of non-deduction of TDS on labour & transactions u/s 40(a)(ia) amounting to Rs 27,15,203, addition under section 40A(3) amounting to Rs 36,45,562. The assessee has not disputed the nature, quantum and incurrence of the expenditure but could not offered any explanation regarding the source of the

expenditure which has not been recorded in the books of accounts and the same has been rightly brought to tax under section 69C of the Act and which could be reconciled and brought to tax under section 69B of the Act. Similarly, the assessee has not disputed the payments which are liable for TDS and given that, the assessee's contention that there are no written/verbal contracts has been rightly rejected by the AO and provisions of section 40(a)(ia) has been rightly invoked. Regarding cash payment and violation of section 40A(3), the AO has given a specific finding that the persons to whom cash has been paid has also been paid through account payee cheques and the assessee has offered no explanation as to the reasons and the circumstances under which cash payment has been made. In view of lack of explanation on the part of the assessee regarding the source of expenditure as per specific provisions of section 69B and 69C and violation of provisions of section 40(a)(ia) on account of non-deduction of TDS and section 40A(3) of the Act on account of payment in cash beyond the prescribed threshold, the additions so made by the AO are hereby confirmed.

30. Regarding other expenses namely excessive/ bogus expenses amounting to Rs 2,63,189, unrecorded marble and granite purchase of Rs 98,948, unrecorded purchases/labour and transportation charges of lime amounting to Rs 8,49,286, unexplained expenses amounting to Rs 1,14,800, unexplained expenses being repair & maintenance of plant and machinery amounting to Rs 2,64,877, unexplained transportation expenses amounting to Rs 6,49,962, the assessee has again failed to offer any explanation in spite of specific show-cause by the AO and the additions have rightly been made by the AO which are hereby confirmed. Ground no. 3 (other than it relates to unrecorded sales/receipts/income discussed subsequently), ground 4 relating to additions u/s 40(a)(ia) and ground no. 6 relating to additions u/s 40A(3) are thus allowed in favour of the Revenue and the findings of the Id CIT(A) are set-aside.

**Suppressed production and unrecorded sales/receipts/income**

31. Ground no. 2 relates to addition on account of suppressed production of ballast from Dabora and sales thereof. Ground no. 3 relates to unrecorded sales of grit of Rs 14,02,856, unrecorded loading receipts from Railways of Rs 1,95,889, unrecorded sales of March 2009 of Dabora/ballast to Railway of Rs 12,27,248, unrecorded income from crusher hire charges of Rs 10,000, unrecorded sales as per Annexure-17 of Rs 1,44,325. Ground no. 5 relates to addition on account of undisclosed receipt of lease rent of Rs 93,000. Ground no. 8 relates to addition on account of undisclosed interest income of Rs 72,000 and ground no. 9 relates to addition on account of loss in Marble & granite trading of Rs 1,43,799.

32. Firstly, in ground no. 2, the Revenue has challenged the action of the Id CIT(A) in deleting the addition of Rs. 18,94,463/- out of total addition of Rs. 54,95,595/- made by A.O. on account of suppressed production of ballast from Dabora and sales thereof.

33. Briefly the facts of the case are that the AO made the addition observing as under:-

"During the assessment proceedings, it was noticed that there is a huge difference between assessee's purchases of dabora and ballast production shown and sold by the assessee which indicates that there is huge suppressed sales. Vide questionnaire dated 25.06.12 it was confronted to the assessee that "he has sold 26017.459 M. Tons of grit/dabora to Railway during the year, which is evident from your sales bills of the assessee. Besides this you have sold 5748.840 tons (143721)CFT) grit to others as per recasted books of account. In this way you have sold 31766.299M. Tons Grit/dabora during the year. The purchase of dabora for the period 1-04-2008 to 30-09-2008 comes to 11825 M. Tons. The dabora purchases in the period 01.10.2008 to

31.03.2009 come to 42770 M. Tons. So the total dabora purchases for the year come to 54595 M. Tons. You have also purchased 1621 M.T. ballast in period up to 30.09.2008 and 4140 M.T. from 01.10.2008. You have sold 31766.299 M. tons ballast. In this way you have not shown the sales for the balance ballast/grit procured from dabora. Please clarify that how much grit has been procured by you from dabora during the year as correct sales could be determined."

After deducting 31766.299 M.Tons from above production the balance is your suppressed sales & these sales are your profit as purchases and expenses of the same has already been debited by you and there is no closing stock of dabora/ grit please file your explanation in this regard.

In this reference the assessee in his reply dated 18.07.2012 submitted that we submit our gitti/dabora sales during FY 2008-09 is Rs. 9671086/- whereas during FY 2009-10 it is Rs. 1,79,90,046/-. In FY 2008-09 our disclosed NP is Rs. 10,95,464/- which is Rs. 1447526/- in FY. 2009-10. Rate of tax both in A.Y. 2009-10 & 2010-11 is same. There is therefore no reason for suppression of any income in A.Y. 2009-10 and pay tax thereon in A.Y. 2010-11. We, however, submit that if on this account any addition is made, it should be @ 6% of deemed disclosed sales and it's corresponding relief be provided in next year i.e. A.Y. 2010-11 wherefrom profit so worked out be reduced.

Further vide this office letter dated 02.08.2012 the assessee was asked that he has not replied o the Query No. 12 of this office's questionnaire dated 25.06.2012 vide which in nut shell it was asked that out of total purchases of 60356 M.Tons dabora/ballast you have sold 31766.299 M.Tons as per recasted books and you have supplied 3339.450 M.Tons in the month of March 2009 as discussed in para 2 of letter dated 02.08.2012. Therefore, total

sales of dabora/ballast comes to 35105.749 M.Tons. It means 25250.251 M.Tons is your suppressed sales value of which @ 367.50 per M.Tons comes to Rs. 92,79,467/-. Please explain why the same should not be added as your income of A.Y. 2009-10?

In this reference, the assessee submitted his written reply dated 06.08.2012 stating therein that total Dabora purchased by us is 54595 M.Ton and ballast purchased by us is 5761 M.Ton, thus total purchases of 60356 M.Ton. Against it we had made gitti sale 31766.299 M.Ton only wherein if sales made in March at 3339.450 M.Ton not shown by us in account is also included, this will bring total to 35105.749 M.Ton only meaning there is gap of 25250.251 M.Ton which is, in consonance to your letter, our suppressed sales and further he has requested to calculate production of 60% ballast from dabora for which again a letter was issued to the assessee for rejection of his submission of 60% production for which he has again submitted to accept the same. The assessee has suspected the quantities of dabora purchased and quantity of ballast sales communicated to him the query letter but it was clarified to him that in recasted books the auditors has given day today quantity of purchases and sales which is based on impounded annexures and purchase vouchers which has been examined during the course of assessment proceedings, so no dispute about the quantity and value of purchases and sales remains.

While going through the sale bills of the assessee, it has been gathered that assessee has collected sales tax @ 12.50 per M.Ton on supply to Railway because the sales tax is Rs. 12.50 per M.Ton on sales on grit from other persons. As per Sales Tax Act prevailing in this period, the sales tax was Rs. 12.50 per M.Ton on ballast and Rs. 20 per M.Ton on grit. It proves that assessee has sold ballast to Railway and not the grit. Here it is pertinent to say that ballast which has been supplied by the assessee to the Railway is of

big size that normal grit size and the chances of wastages is negligible in production of ballast in comparison to grit. After considering the assessee's submissions and circumstances of the case I am of the view that the assessee has procured 80% ballast from the dobara, which will cover all the deficiencies if any, occurred during the transportation, unloading of stacking of ballast at Railway site.

Dabora purchases	54595 M.Tons During the year
The production at 80% comes to	43676 M.Tons During the year
The assessee has also purchased Ballast	5761 M.Tons During the year
Total ballast available	<b><u>49437 M.Tons</u></b>

The assessee has sold	26017 M.Tons to Railway upto Feb. 2009
The assessee has sold	5749 M.Tons to persons other than Railway
The assessee has sold	2717 M.Tons to Railway in March 2009
Total Sales	<b><u>34483 M.Tons</u></b>

In this way, the assessee has suppressed the sales of 14954 Tones. The assessee has not shown the closing stock of the Dobara/ballast so 14954 M.Tons ballast is suppressed sales of the assessee. The assessee has sold ballast to the railway @ 367.50 per M.Ton so the total value comes to Rs. 54,95,595/- when the assessee has debited the expenditure upto March 2009 relating to manufacturing/ transportation for these sales & he was maintaining his books of account on mercantile basis and assessee has not shown any closing stock of Dabora/ballast, so the total suppressed sales of Rs. 54,95,595/- is added as income of the assessee of A.Y. 2009-10."

34. We have gone through the findings of the Id CIT(A) and the same remain uncontroverted before us. The following findings of the Id. CIT(A) are hereby confirmed:

*" The A.O. estimated production of 80% from Dabora purchase whereas the assessee stated that the production varies between 60 to 75%. The assessee also contended that it has sold grit to Railways in cubic meter and the A.O. has converted the same to metric ton by applying wrong conversion factor. As per assessee it has sold 24,569.566 cubic meter to Railways. One cubic meter is equivalent to 35.31 cubic ft. which gives a figure of 8,67,551.38 cubic fit (35.31X24,569.566). According to assessee 25.6 cubic ft. is equivalent to 1 metric ton which gives a figure of 33,888.73 metric ton ( 8,67,551.38/25.6) I have verified the required density for Railway ballast and it was found that the same should not be less than 1200 Kg/Cu.M. The assessee's figure gives a density of 1379.29KG/Cu. M (33888.73\*1000/24569.566 Kg/Cu.M).*

*Therefore the conversion figure is acceptable. After accepting the conversion figure the total sales of ballast comes to 39638 metric ton (including sales to others) only. The assessee claimed that the production of grit is between to 60 to 75%. However, the assessee failed to challenge the finding of A.O. that the assessee has supplied ballast to Railway and not grit. In the case of Ballast, the production is on higher side as there is lesser wastage in the production of Ballast. Considering this fact, I estimate a production of 80% of the Dabora purchases.*

*Accordingly, the excess production is computed as under:-*

<i>Dobara purchases</i>	<i>54595 M.Ton</i>
<i>80% production thereof i.e.</i>	<i>43676 M.Ton</i>
<i>Add. Ballast purchased from others</i>	<i><u>5761 M.Ton</u></i>
<i>Total Ballast available</i>	<i><u>49437 M.Ton</u></i>
<i>Ballast sold to others</i>	<i>5749 M.Ton</i>



<i>Ballast sold to Railway</i>	<i>33889 M.Ton</i>
<i>Upto 20.02.2009 (as above)</i>	-----
<i>Total:</i>	<i>39638 M.Ton</i>
	-----

*This gives a difference of 9799 metric ton. Taking the value of sale at Rs. 367.5 per metric ton, the suppressed sale figure comes to Rs. 36,01,132/-. The same is considered as undisclosed turnover of assessee and used for computing the income of assessee. This ground of appeal is therefore treated as partly allowed."*

34.1 Ground no. 2 of the Revenue is therefore dismissed.

35. In Ground no. 3, the Revenue has challenged the deletion of addition on account of unrecorded sales of grit of Rs 14,02,856, unrecorded loading receipts from Railways of Rs 1,95,889, unrecorded sales of March 2009 of Dabora/ballast to Railway of Rs 12,27,248, unrecorded income from crusher hire charges of Rs 10,000, unrecorded sales as per Annexure-17 of Rs 1,44,325. The total undisclosed turnover therefore comes to Rs 30,69, 266.

36. The Id CIT(A) after taking into consideration the suppressed sales on account of undisclosed production of Rs. 36,01,132/- as decided above, has given a benefit of telescoping to the assessee and has brought to tax the undisclosed sale figure at at Rs. 36,01,132/- being higher of the two. We donot see any infirmity in the same and the said finding of the Id CIT(A) is hereby confirmed. Ground no. 3 to this limited extent is dismissed.

37. In ground no. 5, the Revenue has challenged the deleting of addition of Rs. 93,000/- made by A.O. on account of undisclosed receipt of lease rent. As

per Id. CIT(A), as the assessee has already shown lease rent in the profit & loss account, there is no need for making any separate addition and the A.O. was directed to delete the addition. We donot see any infirmity in the order of Id CIT(A) and the same is hereby confirmed and the ground of appeal no. 5 is dismissed.

38. In ground no. 8, the Revenue has challenged the deletion of addition of Rs. 72,000/- made by A.O. on account of undisclosed interest income on loan of Rs. 3.00 Lac given by the assessee to Shri Mahavir Suman.

39. The relevant finding of the Id. CIT(A) is as under:-

*"I agree with the submission of the assessee that there was a typographic error in the agreement instead of 3, a figure of 30 was wrongly typed. The amount of loan is clearly mentioned in figure and words and the same stood at Rs. 30,000/- only. Therefore the A.O. is directed to delete addition of Rs. 72,000/-. This ground of appeal is therefore allowed."*

40. We do not see any infirmity in the order of Id CIT(A) and the same is hereby confirmed and the ground of appeal no. 8 is dismissed.

41. In ground no. 9, the Revenue has challenged the deletion of addition of Rs. 1,43,799/- made by A.O. on account of loss in Marble & Granite trading as the A.O. had neither rejected Books of Account of the assessee nor estimated income by applying net profit rate on sales.

42. The relevant finding of the Id. CIT(A) is as under:-

*"As the income of assessee is estimated by applying net profit rate therefore, there is no need to separately disallow loss in marble and granite account. The A.O. is therefore directed to delete addition of Rs. 1,43,799/-. This ground of appeal is therefore allowed."*

43. As we have held above, books of accounts have not been rejected in the instant case, therefore there is no basis to estimate net profit. We have

pursued the material available on record. The findings of the AO remain uncontroverted before us and the same are hereby confirmed. In the result, ground of appeal no. 9 is allowed.

44. In ground no. 10, the Revenue has challenged the deletion of addition of Rs. 5,03,251/- out of total addition of Rs. 8,67,670/- made by A.O. on account of peak of negative cash balance since the decision of Id. CIT(A) rejecting the Books of Account of the assessee and estimating undisclosed income of the assessee at Rs. 5,03,251/- by applying net profit rate has not been accepted by the Department.

45. The relevant finding of the Id. CIT(A) is as under:-

*"Considering the above the reply of the assessee cannot be accepted and on merits the findings of A.O. is confirmed. However, it would be fair and justified, if assessee is allowed benefit of telescoping. I have confirmed addition of Rs. 1,43,138/- on disclose sale and Rs. 3,60,113/- on undisclosed sales, totalling to Rs. 5,03,251/-. It is therefore held that this additional amount was available with assessee and to the extent of this amount negative cash balance is treated as explained. In the result, addition of Rs. 3,64,419/- (8,67,670-5,03,251) is confirmed. The A.O. is directed to delete balance addition of Rs. 5,03,251/-. This ground of appeal is therefore partly allowed."*

46. We have pursued the material available on record and the findings of the Id CIT(A). The assessee is allowed the benefit of telescoping on account of additions sustained above which is higher than the addition of Rs. 8,67,670/-. In the result, ground of appeal no 10 is dismissed.

47. In ground no. 1, the Revenue has challenged the action of the Id CIT(A) in deleting the addition of Rs. 1,07,656/- made by A.O. on account of unexplained differences in opening balances of debtors and creditors on protective basis. As per the Id CIT(A), the AO has not gone into merits of the

case and as the difference did not relate to the year under consideration, the A.O. was directed to delete the addition. We donot find any infirmity in the order of the Id CIT(A) and the same is confirmed. The ground of appeal no 1 is dismissed.

48. In ground no. 7, the Revenue has challenged the deletion of addition of Rs. 2,45,000/- out of total addition of Rs. 4,16,000/- made by A.O. on account of different in dates of entries of cash in Bank Statements vis-a-vis cash book.

49. Briefly the facts of the case are that the A.O. made addition of Rs. 4,16,000/- observing as under:-

"During the course of assessment proceedings, it was noticed that there are some differences in date of cash entries written in the final books of account and recasted books of the assessee on the basis of bank statements which effects the cash balance position of books of account. The assessee was asked to furnish his explain as to why the total amount of Rs. 4,16,000/- of four bank entries should not be added as his income from undisclosed soruces? Following are the differences:-

A. The assessee has given a sum of Rs. 1.00 Lac on 22.05.08 from Punjab National Bank account No 7363 to Swastik Stone Crusher as per book statement & in impounded Annexure-30, it is written as paid to Swastik Stone Crusher by self cheque. The assessee has shown it as cash withdrawal in his audited books of account.

Assessee filed reply stating therein that payment of Rs. 100000/- was intended to be paid to Swastik Crusers but it was not paid and money withdrawn from Bank on strength of bearer was taken in cash book.

I have gone through the reply of the assessee and the same is not found tenable, because the payment of Rs. 1.00 Lac was made by the assessee to M/s Swastik Stone Crusher but later on, the assessee has entitled this amount in his cash book to increase his cash balance. This cash balance was introduced by the assessee in his cash book out of his income from undisclosed sources. Therefore, the same is added to the total income of the assessee.

B. The assessee has given a cheque of Rs. 21,000/- to Patel Tyres on 13.08.08 from Bank A/c No. 8034 of PNB as evident from Ann- 30. The assessee has shown it as cash withdrawal in his audited books of account.

Assessee filed reply stating that tyres for truck were intended to be purchased from Patel Tyres, and cheque was prepared, however neither tyres were purchased nor payment was made and therefore money withdrawn from Bank on strength of bearer cheque was taken in cash book.

I have gone through the reply of the assessee and have not found it as tenable, because the assessee has opted some operandi, as he has taken above, and similarly he has made payment of Rs. 21,000/- to Patel Tyres on 13.08.2008 but simultaneously, he entered this cash in his cash book also. Actually, this cash was earned by assessee from his undisclosed sources, therefore, it is added to his total income.

C. The assessee has given a cheque of Rs. 50,000/- on 12.08.2008 from Bank A/c No. 8034 PNB to S.S. Pillay, Baroda which is evident from bank statement. The assessee has shown it as cash withdrawal in his audited books of account.

Assessee filed reply stating that from S.S. Illay, Baroda, Machine parts were to be purchased. However, neither it was purchased nor payment was made and

therefore money withdrawn from bank on strength of bearer cheque was taken in cash book.

After going through the reply of the assessee, I have found no merit in it because the assessee has opted same modus operandi as described in earlier para and he made a payment of Rs. 50,000/- on 12.08.2008 to S.S.Pillay, Baroda through cheque but on other hand he diverted the cash of Rs. 50,000/- to his cash book. This amount of Rs. 50,000/- is added to the total income of the assessee being earned from undisclosed sources.

D. The assessee has withdrawn Rs. 2,45,000/- from Punjab National Bank A/c No. 8034 on 03.03.09 as cash as is evident from bank statement. In the books of assessee, he has entered this entry on 02.02.09. How it was entered one day before the withdrawal in the books of account, is unimaginable.

Assessee filed reply stating that because of mistake of our accountant this entry of Rs. 245000/- as cash withdrawn from bank was made on 02.03.2009 i.e. one day earlier. However its use was not made by us because we had Rs. 372111/- cash in hand with us excluding Rs. 245000/- on 02.03.2009.

I have gone through the reply of the assessee and have not found it as tenable, because he has introduced Rs. 2,45,000/- from his undisclosed sources of income on 02.03.2009 in his cash book as against withdrawal made from bank on 03.03.2009. The assessee's statement that he has sufficient cash balance in his cash book on that day and he did not utilize this cash till the date of withdrawal from bank does not justify his claim that he did not make any any mistake and how it was possible that without withdrawing money from bank, he entered this cash in his cash book on an earlier date. Therefore, Rs. 2,45,000/- is added to the assessee's income from undisclosed sources.

As discussed above in paras A to D, after going through the reply of assessee, it is not found tenable because submission put forth by the assessee is not reliable being there are so many wrong/suppressed sales & purchases and inflated expenses entered in the books of account of the assessee. Looking to facts and circumstances of the case, an amount of Rs. 4,16,000/- (100000 + 21000 + 50000 + 245000) relating to paras A to D above is hereby added to the total income of the assessee."

50. The comment of the AO in the remand report called by the Id CIT(A) are reproduced below:

- "i) *The submission and certificate submitted by the appellant is baseless misleading and false. I am enclosing herewith the photocopy of Annexure-1 (Page No. 26) in which it is clearly mentioned that this payment has been received by Swastik Crusher by self cheque which is marked now as exhibit .....B.*
- ii) *The payment of Rs. 21,000/- has been made by the appellant by cheque to Patel Tyres. I am enclosing herewith the photocopy of Annexure-30 Page No. 11 which is now marked as exhibit.....C and this is not cash withdrawal made by the appellant. Here the appellant is misleading your honour by saying that he has not made the payment to Patel Tyre and this is a withdrawal in cash from bank.*

*The appellant has also made payment of Rs. 50,000/- by cheque to M/s S.S. Pillai Baroda I am enclosing herewith the photocopy of bank statement which is now marked as exhibit .....D from which it can be verified that the payment has been made to S.S. Pillai and this is not cash withdrawal made by the appellant.*

*Here again the appellant misleading your honour by saying that he has not made the payment to S.S. Pillai and this is a withdrawal in cash from Bank”.*

51. We have pursued the material on record. The following findings of the Id. CIT(A) remain uncontroverted before us and the same are hereby confirmed:

*"Regarding entry of Rs. 2,45,000/-, I agree with the submission of assessee that this entry was wrongly entered on 02.03.2009 in place of actual date of 03.03.2009, however, it did not make any difference as assessee had sufficient cash balance of Rs. 3,72,111/- on 02.03.2003 and even if entry of Rs. 2,45,000/- was corrected the cash balance did not go in negative.*

*However, the assessee failed in explain the entries of Rs. 1,71,000/-. Therefore, addition of Rs. 1,71,000/- is confirmed."*

52. In light of above, ground of appeal no. 7 is dismissed.

The appeal of revenue is partly allowed in light of above directions.

Order pronounced in the open court on 18/09/2017.

Sd/-  
(कुल भारत )  
(Kul Bharat)  
न्यायिक सदस्य / Judicial Member

Sd/-  
(विक्रम सिंह यादव)  
(Vikram Singh Yadav)  
लेखा सदस्य / Accountant Member

Jaipur

Dated:- 18/09/2017

\*Santosh

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Respondent- The ITO, Ward-2(1), Kota.
2. प्रत्यर्थी / The Appellant- Shri Babu Lal Somani, Prop. M/s Somani & Company and Somani Carrier, Bundi Road, Kota.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)



5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT,
6. गार्ड फाईल / Guard File (ITA No. 931/JP/2013)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar.